

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DANNIX PAINTING, LLC,)	
)	
Plaintiff,)	CASE NO. 4:12-cv-1640
vs.)	
)	
THE SHERWIN-WILLIAMS COMPANY,)	JURY TRIAL DEMANDED
)	
Defendant.)	

NOTICE OF REMOVAL OF CIVIL ACTION

TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that Defendant THE SHERWIN-WILLIAMS COMPANY (“Sherwin-Williams”), named in the civil action filed in the Circuit Court of the County of St. Louis, 21st Judicial Circuit, State of Missouri, Cause No. 12SL-CC3090 (“the State Case”) hereby note the removal of this action to the United States District Court for the Eastern District of Missouri, Eastern Division. In support, Defendant states:

1. On or about August 13, 2012, Sherwin-Williams was named in the above-captioned matter with Plaintiff’s Complaint, and a Summons of Personal Service, (**attached hereto as Exhibit 1**). These documents constituted Sherwin-Williams’ first notice of this matter. The Plaintiff’s Complaint is based on painting work performed by Plaintiff at Elgin Air Force Base in Okaloosa County, Florida. Exhibit 1, at ¶5.

2. Plaintiff is a limited liability company organized under the laws of the State of Mississippi, with its principal place of business in Jackson, Mississippi. See Certificate of Formation, **attached hereto as Exhibit 2**.

3. On information and belief, Plaintiff Dannix Painting, LLC is comprised of only one member, Diane Dankocsik, who is an individual domiciled in the State of Missouri. See Dannix Painting, LLC Annual Report 2011, **attached hereto as Exhibit 3**.

4. Defendant The Sherwin-Williams Company is a corporation formed under the laws of the State of Ohio with its principal place of business in Cleveland, Ohio. See Articles of Incorporation (**attached hereto as Exhibit 4**) and Corporation Details from the Ohio Secretary of State Website (**attached hereto as Exhibit 5**).

5. Therefore, as Plaintiff and Defendant are citizens of different states, diversity of citizenship exists in this matter.

6. Furthermore, Sherwin-Williams reasonably believes the amount in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

7. On March 27, 2012, Sherwin-Williams received a demand letter from Plaintiff's counsel claiming that the cost to remediate the alleged damage at issue totals \$1.35 million. See March 27, 2012 letter **attached hereto as Exhibit 6**.

8. 28 U.S.C. §1441(b) provide for the removal from State court of civil actions based on diversity of citizenship pursuant to 28 U.S.C. §1332(a). Accordingly, Plaintiff and Defendant are residents of different states and the amount in controversy exceeds \$75,000, and therefore removal is appropriate.

9. Sherwin-Williams is the only defendant in this matter, and therefore there is no requirement to obtain the consent of other defendants prior to filing.

10. Defendant Sherwin-Williams reserves the right to amend this Notice of Removal.

11. Defendant Sherwin-Williams reserves all defenses, including, without limitation, the defense of lack of personal jurisdiction.

12. As required by 28 U.S.C. §1446(a) and Local Rule 2.03, true and correct copies “of all process, pleadings, and orders” in the State Court case that is being removed, as of this date, are being filed with this Notice of Removal. Such process, pleadings, and orders that are not already attached appear as **Exhibit 7**.

WHEREFORE, Defendant THE SHERWIN-WILLIAMS COMPANY prays this action be removed to this Court and for any additional relief the Court deems appropriate and just.

Respectfully submitted,

By: /s/ Tracy J. Cowan

Tracy J. Cowan, #MO40229
John A. Bruegger, #MO53172
10 S. Broadway, Suite 1300
St. Louis, Missouri 63102
(314) 678-8600
(314) 678-8686 – Facsimile

tcowan@hptylaw.com
jbruegger@hptylaw.com

Attorneys for Defendant
The Sherwin-Williams Company

OF COUNSEL:
HAWKINS PARNELL THACKSTON & YOUNG LLP

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

DANNIX PAINTING, LLC,)	
)	
Plaintiff,)	CASE NO. 4:12-cv-1640
vs.)	
)	
THE SHERWIN-WILLIAMS COMPANY,)	JURY TRIAL DEMANDED
)	
Defendant.)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of Defendant The Sherwin-Williams Company's ("Sherwin-Williams") **NOTICE OF REMOVAL OF CIVIL ACTION** was sent via electronic and regular mail to Jill Rembusch at SUMMERS COMPTON WELLS, P.C., Attorneys for Plaintiff on the 12th day of September, 2012.

Respectfully submitted,

By: /s/ Tracy J. Cowan

Tracy J. Cowan, #MO40229
John A. Bruegger, MO53172
10 S. Broadway, Suite 1300
St. Louis, Missouri 63102
(314) 678-8600
(314) 678-8686 – Facsimile

jbruegger@hptylaw.com

Attorneys for Defendant
The Sherwin-Williams Company

OF COUNSEL:
HAWKINS PARNELL THACKSTON & YOUNG LLP

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered via the PACER/ECF System for the United States District Court, Eastern District of Missouri, and via regular first class USPS mail on the 12th day of September, 2012 to the following:

Jill R. Rembusch
Summers Compton Wells, P.C.
8909 Ladue Road
St. Louis, Missouri 63124
jrembusch@summerscomptonwells.com

/s/ Tracy J. Cowan